Power of Attorney

This booklet contains the Alaska form for a Power of Attorney. Alaska Legal Services Corporation provides this as a service to you and does not take responsibility for how you fill it out. The law allows you to fill out this form on your own. This booklet contains general information to assist you. However, if you have questions, please contact an attorney. The Alaska Bar Association's Lawyer Referral Service can provide you with a list of attorneys (272-0352 or 1-800-770-9999 outside Anchorage). If you cannot afford an attorney or if you are 60 years or older, Alaska Legal Services may be able to assist you. Please call: Anchorage 272-9431 or (888) 478-2572; Bethel 543-2237 or (800) 478-2230; Dillingham 842-1452 or (888) 383-2448; Fairbanks 452- 5181 or (800) 478-5401; Juneau 586-6425 or (800) 789- 6426; Kenai 395-0352 or (855)-395-0352; Ketchikan 225- 6420 or (877) 525-6420; Kotzebue 442-7737 or (877) 622- 9797; Nome 443-2230 or (888) 495-6663; Palmer (746- 4636) or (855) 996-4636; or Utqiagvik (Barrow) (855-8998) or (855) 755-8998.

This booklet is provided by Alaska Legal Services Corporation, a statewide private nonprofit organization. Nothing contained in this publication is to be considered as the rendering of legal advice for specific cases and readers are responsible for obtaining such advice from an attorney.

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For information regarding many other legal topics, see www.alaskalawhelp.org

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DIRECTIONS

This booklet reflects changes in the law that became effective in January 2017.

What is a Power of Attorney?

You make a variety of decisions every day. If you sign a *Power of Attorney,* you give another person (your agent) the right to make decisions for you and you give them the authority to carry the decisions out. The form provided here is based upon the Alaska Statutes (AS 13.26.600-965) and it can be tailored to meet your specific needs. For instance, you can grant your agent broad powers to do almost anything you could do for yourself (general power of attorney) or you can pick and choose the powers you want to give an agent (specific power of attorney). You can choose to appoint an agent immediately or you can make the appointment effective only if you become disabled. You can limit the time your agent will have power to act on your behalf or you can make the appointment "durable," which means your agent will have powers even if you become disabled. You can also indicate that the appointment will be revoked upon your incapacity.

Please note, Alaska now has a separate law addressing health care advance directives. Issues addressed include the designation of a health care agent, end-of-life treatment decisions (living wills), mental health care treatment options, and organ donation (see AS 13.52). There is a separate booklet and form titled the *Alaska Advance Health Care Directive* that should be used for all health care related issues.

Section 1. Naming your agent.

In this section, you name the person who you wish to appoint as your agent. There is also a space where you can name a second person as a co-agent, but you don't have to. **It is critically important that you trust the person you name in your *Power of Attorney*.** The authority you give as the "principal" can have a major impact on you. For instance, your agent may sell your house or withdraw money from your accounts. There will be no oversight of your agent by a judge regarding the decisions he or she makes. In addition, it is very important to make sure the agent understands what your wishes are. Therefore, it is highly recommended that you discuss your wishes and desires with the person you name in your *Power of Attorney*. However, as long as you are mentally competent, you always have the right to revoke a *Power of Attorney*.

Section 2. If you name more than one agent, you have a couple options.

As mentioned above, you can name more than one person to act on your behalf. If you name more than one agent in Section 1, you must mark the first or second statement in Section 2. Mark the first statement if you want to allow each agent to make decisions without getting approval from the other. If you want both agents to act together, jointly, mark the second sentence.

It's probably not a good idea to require both agents to act together if one of them lives outside Alaska. For instance, if you name two people as your agents and they are trying to sell your house, both of them would need to sign all the paperwork. In general, appointing only one agent is simpler. In Section 10, you can name a second person as an alternate agent in case your first agent is unable or unwilling to serve.

Section 3. Choosing which powers to grant on *Power of Attorney* form.

You do not have to give your agent authority for all of the powers listed in Section 3 of the *Power of Attorney* form. In fact, any power (A-N) that is NOT marked "Yes" by you will NOT be granted to your agent. You can find more detailed information about what powers each provision grants by asking an attorney or reading Alaska Statute Section 13.26.665. NOTE: the authority to make health care decisions for you is not covered by this power of attorney form. There is a separate form called the Alaska Advance Health Care Directive that covers all health care issues. It is highly recommended that you complete BOTH a Power of Attorney form and an Alaska Advance Health Care Directive.

Section 4. Grant of Specific Authority.

This section addresses some special situations that may apply. The form is structured so that the principal must mark the special power if he or she wishes the agent to have that power. If the power is not marked by the principal the agent will NOT have the power.

Section 5. Sections 5, 6, and 7 let you decide when and for how long you want the *Power of Attorney* to be effective. If you mark the first sentence in Section 5, the document will become effective immediately and the person you name as your agent will have the power to act on your behalf. Some people do not want this. Instead, you may want to designate an agent only in the event you cannot act on your own behalf. Marking the second sentence makes the appointment of an agent effective only when you become incapacitated. This is what is meant as a "springing" power of attorney.

Section 6.

If you choose to make your Power of Attorney effective immediately, then in Section 6 you must decide whether it will be "durable." A durable power of attorney remains effective in the event you become incapacitated. If you want your agent to continue to have authority under such circumstances, mark the first sentence in Section 6. If not, mark the second sentence in Section 6.

Section 7.

If you want to appoint someone as your agent to accomplish a specific task or only for a limited period of time, you should complete this section. This section allows you to pick a date on which the *Power of Attorney* will no longer be valid. Do not complete this section if you want your power of attorney to be "durable" or to become effective only if you become disabled.

Section 8.

You may revoke this *Power of Attorney* for any reason at any time, provided you are mentally competent to do so. There are a couple ways to do this. You may destroy the original and complete a new *Power of Attorney* if you wish to name another person. You can also sign a *Notice of Revocation* by writing a brief notarized statement revoking the old *Power of Attorney*. The new *Power of Attorney*, or the *Notice of Revocation*, should be distributed in the same manner as you distributed the old *Power of Attorney*. To be safe, you should also send the *Notice of Revocation* directly to the agent via first class mail, return receipt requested, so that you can prove that the agent was informed that he/she was no longer authorized to act on your behalf. You may also wish to record the *Notice of Revocation* with a state Recorder's office.

Section 9. Notice to Third Parties.

This section does not require any action. It describes some possible legal consequences if a third party refuses to honor a validly executed Power of Attorney.

Section 10 (optional). Naming an alternate agent.

It's possible that the person you name as your agent will not be able to perform his or her duties. For instance, your agent may move out of state, die, or otherwise become incapable of performing. To address this possibility, you may want to name a replacement just in case.

Section 11 (optional). Naming a guardian or conservator.

There are some circumstances in which a guardian or conservator will need to be appointed for you even if you have completed a Power of Attorney form. This section allows you to name the person you would want to serve as your guardian or conservator. You may name the same person you named as your agent.

Section 12 (optional). Health Care Power of Attorney.

As mentioned in section 3, there is a separate form called the Alaska Advance Health Care Directive that covers all health care issues. If you have a health care directive, you may want to indicate this fact by marking the appropriate statement in this section.

Section 13. Signatures.

The *Power of Attorney* must be signed in front of a notary and sealed by him or her. Once you have completed the *Power of Attorney*, you should give the original to whomever you named as the power of attorney, distribute copies to important people, and keep a copy for yourself. If you later revoke the *Power of Attorney*, you should distribute the revocation in the same manner as you distributed the original.

POWER OF ATTORNEY

The powers granted from the principal to the agent or agents in the following document are very broad. They may include the power to dispose, sell, convey, and encumber your real and personal property. Accordingly, the following document should only be used after careful consideration. If you have any questions about this document, you should seek competent advice. You may revoke this power of attorney at any time.

Section 1. Designation of Agent. Pursuant to A.S.13.26.600, 13.26.625- 13.26.640, and 13.26.655 - 13.26.695

I,_____
(Name and address of principal)

hereby designate the following person as my agent to act as I have indicated below in any way which I myself could do, if I were personally present, with respect to the following matters, as each of them is defined in AS 13.26.665, to the full extent that I am permitted by law to act through an agent:

Name of individual you choose as your agent: _____

Address of agent: _____

Telephone contact of agent: _____

If you wish to name a second person to serve as your agent, please complete the section below:

Name of second individual you choose as your agent: _____

Address of second agent: _____

Telephone contact of second agent: _____

Section 2. If you have appointed more than one agent in Section 1 above, mark one of the following:

_____Each agent may exercise the powers conferred separately, without the consent of any other agent.

_____All agents shall exercise the powers conferred jointly, with the consent of all other agents.

Section 3. Mark the boxes below to indicate the powers you want to give your agent or agents. Mark the box for "yes" that is opposite a category below to give your agent or agents the power in that category. If you do not mark a box opposite a category, your agent or agents will not have the power in that category.

	YES
(A) Real estate transactions	☐
(B) Transactions involving tangible personal property, chattels, and goods	☐
(C) Bonds, shares, and commodities transactions	☐
(D) Banking transactions	☐
(E) Business operating transactions	☐
(F) Insurance transactions	☐
(G) Estate transactions	☐
(H) Retirement plans	☐
(I) Claims and litigation	☐
(J) Personal relationships and affairs	☐
(K) Benefits from government programs and civil or military service	☐
(L) Records, reports, and statements	☐
(M) Voter registration and absentee ballot requests	☐
(N) All other matters	☐
(O) Only these powers specified below:	☐

_____

_____

Section 4. Grant of Specific Authority (optional)

The agent or agents you have appointed WILL NOT have the power to do any of the following acts UNLESS you MARK the box opposite that category:

☐ create, amend, revoke, or terminate an inter vivos trust;
☐ make a gift, subject to the limitations of AS 13.26.665(q) and any special instructions in this power of attorney;
☐ create or change a beneficiary designation;
☐ revoke a transfer on death deed made under AS 13.48;
☐ create or change rights of survivorship;
☐ delegate authority granted under the power of attorney;
☐ waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
☐ exercise fiduciary powers that the principal has the authority to delegate.

DURABLE POWER OF ATTORNEY OPTIONS

Sections 5, 6, and 7 allow you to choose when you want it to go into effect and whether or not you want this to be a durable power of attorney. *Note: If you want this to be a durable power of attorney, do not limit the term of this document in the sections below.*

Section 5. To indicate when this document shall become effective, mark one of the following:

_____This document shall become effective upon the date of my signature.

_____ This document shall become effective upon the date of my incapacity and shall not otherwise be affected by my incapacity.

Section 6. If you have indicated that this document shall become effective on the date of your signature, mark one of the following:

_____This document shall not be affected by my subsequent incapacity.

_____This document shall be revoked by my subsequent incapacity.

Section 7. If you have indicated that this document shall become effective upon the date of your signature and want to limit the term of this document, complete the following:

This document shall only continue in effect until _____, 20____.
(Month/Day) (Year)

Section 8. Notice of revocation of the powers granted in this document.

You may revoke all of the powers granted in this document, or just specific powers. Unless otherwise provided in this document, you may revoke all the powers granted in this power of attorney by completing a subsequent power of attorney. Or you may revoke a specific power granted in this power of attorney by completing a special power of attorney that includes the specific power in this document that you want to revoke.

Section 9. Notice to Third Parties

A third party who relies on the reasonable representations of an agent as to a matter relating to a power granted by a properly executed statutory form power of attorney does not incur any liability to the principal or to the principals heirs, assigns, or estate as a result of permitting the agent to exercise the authority granted by the power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable to the principal, the agent, the principal's heirs, assigns, or estate for civil penalty, plus damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. If the power of attorney is one which becomes effective upon the incapacity of the principal, the incapacity of the principal is established by an affidavit, as required by law.

Optional Provisions

Section 10. You may designate an alternate agent. Any alternate you designate will be able to exercise the same powers as the agent(s) you named at the beginning of this document. If you wish to designate an alternate, complete the following:

If the agent(s) named at the beginning of this document is unable or unwilling to serve or continue to serve, then I appoint the following agent to serve with the same powers:

Alternate or successor agent _____

(Name and address of alternate)

Section 11. You may nominate a guardian or conservator. If you wish to nominate a guardian or conservator, complete the following:

In the event that a court decides that it is necessary to appoint a guardian or conservator for me, I hereby nominate the following person to be considered by the court for appointment to serve as my guardian or conservator, or in any similar representative capacity.

Person nominated as guardian or conservator: _____

(Name and address of guardian or conservator)

Section 12. If you have given an agent authority regarding health care services, complete the following:

_____I have executed a separate declaration under AS 13.52 known as an “Alaska Advance Health Care Directive."

_____I have not executed an “Alaska Advance Health Care Directive."

Section 13. Signatures.

In Witness Whereof, I have hereunto signed my name this _____ day of _____, 20____.

_____
(Signature of principal)

STATE OF ALASKA)
) ss.
__ JUDICIAL DISTRICT)

Acknowledged before me at_____on the_____day of_____, 20__.

_____
Signature of officer or notary. Serial number, if any; date commission expires.

OPTIONAL: If a person other than the principal executes the signature for the principal, the person may not be a person who is appointed an agent in the power of attorney, and the following signature line and notary verification must also be completed:

IN WITNESS WHEREOF, I have hereunto signed my name this ____ day of _____, 20__.

Name of the principal: _____

Signature of the person signing at the request of the principal: _____

Printed name of person signing at the request of the principal: _____

Form of identification of person signing: _____

Acknowledged before me at_____on the _____day of _____, 20__.

_____
Signature of officer or notary. Serial number, if any; date commission expires.

TRANSLATION CLAUSE (if needed)

I certify that I have translated the provisions of the foregoing *Power of Attorney* from the English language to the _____ language to the best of my ability.

_____
Translator